

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 27378 of 2013 (O/M)
Date of decision : 8.8.2016

Ajmer Singh

..... Petitioner (s)

Versus

Dakshin Haryana Bijli Vitran Nigam and others Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sandeep Kumar, Advocate, for,
Mr. Vikram Singh, Advocate, for the petitioner.

Mr. Ashok Singh Chaudhary, Advocate, for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner, who was a Meter Reader in the respondent-department, retired from service on 31.10.2008. It comes out that while he was in service, a criminal case under Sections 7 and 13 of the Prevention of Corruption Act, 1988, was registered against the petitioner at Police Station SVB Gurgaon. Vide judgment of conviction dated 8.4.2011 and order of sentence dated 9.4.2011, the petitioner was convicted and sentenced by the learned Additional Sessions Judge/Special Judge, Faridabad. The petitioner is stated to have preferred an appeal against the said judgment of conviction, which was dismissed by this Court. Thereafter, the petitioner has preferred a revision against the said judgment of conviction, which according to him, is pending before this Court. In the meanwhile, the respondent-department passed the impugned order dated 21.11.2011 (Annexure-P-1), whereby on account of his conviction in the said criminal case by the learned Additional

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Sessions Judge/Special Judge, Faridabad, his services were terminated with effect from 19.9.2008 i.e. the date on which he was arrested. It is this order, which has been impugned by the petitioner in the present petition and he seeks further relief for releasing his remaining retiral benefits.

I have heard the learned counsel for the petitioner, the learned counsel for respondents and have also carefully gone through the file.

The factual position is not disputed. The short question arising for consideration is that whether after the retirement of the petitioner from service, he could be dismissed from service, vide the impugned order dated 21.11.2011 (Annexure-P-1) ? I find the reply in negative.

The petitioner retired from service on 31.10.2008 i.e. during the pendency of the trial after the retirement. The petitioner was convicted by the learned Additional Sessions Judge/Special Judge, Faridabad, on 8/9.4.2011 and the appeal against the same has been dismissed by this Court. Now, the revision is stated to be pending against the said judgment. However, after the retirement, there was no relationship of employee and employer nor it was direction of the respondents that for the purpose of departmental proceedings, the services of the petitioner shall continue with respondent-department. Therefore, after his retirement on 31.10.2008, the petitioner could not be terminated from service, vide order dated 21.11.2011 (Annexure-P-1), with effect from 19.9.2008 i.e. the date on which the petitioner was arrested in the said criminal case. The impugned order is patently illegal and is hereby set aside. However, the respondents are at liberty to proceed against the petitioner under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-2, Chapter-II and if so desire, can pass appropriate orders in accordance with law.

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In view of the above, the respondents are directed to release all the retiral benefits to the petitioner. However, qua the pension, if the respondents decide to proceed under Rule 2.2 (b) (ibid), only the provisional pension will be released to the petitioner, subject to further orders that may be passed by the respondents and the quantum to be fixed by the respondents. For the delayed payments of the retiral benefits, except the pension, the respondents shall also pay interest at the rate of 9% per annum, starting three months from the date of retirement.

The present writ petition is allowed.

(KULDIP SINGH)
JUDGE

8.8.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No